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FILED  
 U.S. BANKRUPTCY COURT  
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 S.D. OF N.Y.

**UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK**

**In re:**

**Chapter 11**

**THE NEW YORK RACING ASSOCIATION INC.,**

**Case No. 06-12618 (JMP)**

**Debtor.**

**COUNTER-STATEMENT OF ISSUE AND  
 COUNTER-DESIGNATION OF RECORD ON APPEAL**

Pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, appellee The New York Racing Association Inc. ("NYRA") hereby submits the following counter-statement of the issue and counter-designation of additional items to be included in the record for the appeal filed by Eugenia Ayuso, Fabian Cabrales, Richard Gazer and Donaldo Mack (collectively, the "Appellants") from the Order Denying Emergency Motions of Eugenia Ayuso, Fabian Cabrales, Richard Gazer, Antonio Garcia and Donaldo Mack for the Entry of an Order Extending the Claims Bar Date and To Permit Late Filing of Proofs of Claim, entered by the United States Bankruptcy Court for the Southern District of New York on March 7, 2008.

**Counter-Statement of Issue on Appeal**

Whether the Bankruptcy Court abused its discretion in denying Appellants' request to file proofs of claim where Appellants (a) received actual notice of Bankruptcy Court's

order establishing the deadline for all persons to file proofs of claim, (b) failed to timely file a proof of claim, and (c) failed to establish excusable neglect with respect to such failure?

**Counter-Designation of the Record on Appeal**

In addition to the items designated by Appellants to be included in the record on appeal, NYRA designates the following:

1. Statement of Financial Affairs, filed 1/2/07, Docket Number 149.
2. Schedules of Assets and Liabilities, filed 1/2/07, Docket Number 150.
3. Certificate of Service of the Notice of Deadline for Filing Proofs of Claim, filed 4/23/07, Docket Number 369.
4. Debtor's First Omnibus Objection to Proofs of Claim, filed 10/15/07, Docket Number 555.
5. Plan of Debtor Pursuant to Chapter 11 of the United States Bankruptcy Code, filed 10/23/07, Docket Number 568.
6. Disclosure Statement for the Plan of Debtor Pursuant to Chapter 11 of the United States Bankruptcy Code, filed 10/23/07, Docket Number 569.
7. Amended Plan of Debtor Pursuant to Chapter 11 of the United States Bankruptcy Code, filed 11/19/07, Docket Number 651.
8. Disclosure Statement for Amended Plan of Debtor Pursuant to Chapter 11 of the United States Bankruptcy Code, filed 11/19/07, Docket Number 652.
9. Second Amended Plan of Debtor Pursuant to Chapter 11 of the United States Bankruptcy Code, 11/27/07, Docket Number 691.
10. Disclosure Statement for Second Amended Plan of Debtor Pursuant to Chapter 11 of the United States Bankruptcy Code, filed 11/27/07, Docket Number 692.
11. Order with Respect to NYRA's First Omnibus Objection to Proofs of Claim, filed 11/28/07, Docket Number 697.
12. Third Amended Plan of Debtor Pursuant to Chapter 11 of the United States Bankruptcy Code, filed 11/29/07, Docket Number 698.
13. Disclosure Statement for the Third Amended Plan of Debtor Pursuant to Chapter 11 of the United States Bankruptcy Code, filed 11/29/07, Docket Number 699.

14. Letter from Neil Frank to the Honorable James M. Peck, filed 12/27/07, Docket Number 809.
15. Proof of Claim No. 636 filed by Ileanna M. Cala, filed 6/6/07.

Dated: New York, New York  
April 3, 2008

/s/ Brian S. Rosen  
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